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10/524,767	07/13/2005	John Anthony Foran	1817-0155PUS1	3428
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BIRCH STEWART KOLASCH & BIRCH			VIZVARY, GERALD C	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/524,767	FORAN ET AL.
	Examiner Gerald C. Vizvary	Art Unit 3609

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 52-73 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_ is/are allowed.  
 6) Claim(s) 52-73 is/are rejected.  
 7) Claim(s) \_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 2/16/2005 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. ____ .                                     |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: ____ .                         |

## **DETAILED ACTION**

### ***Claim Objections***

Claim 68 through 72 are objected to under 37 CFR 1.75(c) for improperly limiting independent claim 52. Claim 68 recites a computer program. Claim 52 recites a method. Claim 68 is improperly switching statutory classes from its dependent claim. In other words, claim 68, as a computer program should not depend on claim 52, which is a method. Claims 69 through 72 are objected to for incorporating the same improper switching of statutory classes as claim 68.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 72 is rejected under 35 USC 101 as being directed toward non-statutory subject matter.

As for Claim 72 a computer program according to claim 68, carried on an electrical signal carrier. Claims that recite nothing but the physical characteristics of a form of energy, such as a frequency, voltage, or the strength of a magnetic field, define energy or magnetism, per se, and as such are nonstatutory natural phenomena. O'Reilly, 56 U.S. (15 How.) at 112-14. Moreover, it does not appear that a claim reciting a signal encoded with functional descriptive material falls within any of the categories of patentable subject matter set forth in §101.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 52-56, and 64-73 are rejected under 35 U.S.C. 102(b) as being anticipated by Armes (WO 01/33522 A1)

As for claim 52, Armes shows a funds transfer method in a system comprising a plurality of entity computers each with means to provide an unique entity identification (ID) ("Financial account identifier" Armes page 5, line 18) and a system server computer interconnected by a communications network ("distributed computer network" Armes page 4, line 25), the system server computer having an escrow account associated therewith into and out of which funds may be transferred ("escrow account" Armes page 5, line 14), the method comprising establishing, prior to or during a funds transfer, an entity account for each entity computer with the system server computer and on a funds transfer being desired between two entity computers, designating, as appropriate, one as a remitter computer and the other as a receiver computer and then the steps are performed of (Armes, page 5 lines 14-16):

the remitter computer sends transaction details and the receiver entity ID to the system server computer (Armes, page 14 line 30- page 15 line 6);

the systems server computer generates two different codes, namely, a locking code and a funds release code, in which the locking code is used to control the holding of the funds in the escrow account and the funds release code is used to control the release of the funds from the escrow account (The locking code is used to control the holding of the funds in the escrow account and the funds release code is used to control the release of the funds from the escrow account (US 2005/0246268 paragraph 0010). In the same way "the transaction mechanism 202 then executes the transaction by debiting the purchaser's financial account and crediting a suitable escrow account maintained by the

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transaction mechanism 202" (Armes page 16 lines 26-28). The funds release code is used to control the release of the funds from the escrow account (US 2005/0246268 paragraph 0010). In the same way, "the transaction mechanism 202 withholds the funds from the seller's financial account and suitably maintains the funds in the escrow account pending the occurrence of the escrow release event. Debiting of the escrow account and crediting the seller's financial account for the amount of the funds transfer occurs once the escrow release event has transpired" (Armes page 17 lines 1-5))

the systems server computer confirms, by sending the locking code and funds release code to the remitter computer, the availability of funds in the escrow account for the receiver computer entity account (Armes, page 16 Lines 21-26);

and the remitter computer sends the locking code to the receiver computer and the receiver computer sends the locking code to the systems server computer, which locks the funds for that receiver computer so that the funds are no longer available to the remitter computer (Armes, page 16 lines 26-30);

and in which on a specified event occurring, the funds release code is sent to the system server computer and the system server computer releases the funds from the escrow account to the receiver computer entity account (Armes, page 16 line 30-page 17 line 6) .

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As for claim 53, Armes shows a method as claimed in claim 52, in which on the system server computer confirming the availability of the funds in the escrow account, the system server computer sends the two codes to the remitter computer and if the remitter computer does not send the locking code to the other entity but sends it to the systems server computer, the transaction is cancelled and the funds in the escrow account are released to the remitter entity account ('the escrow release event is not satisfied...the transaction may be suitably reversed or otherwise abandoned Armes, page 19 line 6-8).

As for claim 54, Armes shows a method as claimed in claim 52, in which the sending of the funds release code to the system server computer comprises:

the remitter computer sending the funds release code to the receiver computer and the receiver computer sending the funds release code to the system server computer (Armes, page 16 line 30-page 17 line 6).

As for claim 55, Armes shows a method as claimed in claim 52, in which the specified event comprises one or more of:

the expiry of an agreed settlement date (Armes, page 33 lines 5-9);

the receipt by the receiver computer of acceptance of completion of the transaction (Armes, page 16 line 21-26);

a prior agreed condition precedent for completion of the transaction being achieved (Armes, page 16 line 30-page 17 line 6);

a mutually agreed outcome notified by the two entities to the systems server computer (Armes, page 18 line 15-18);

and a decision by an arbitrator appointed to resolve the dispute (Armes, page 18 line 33- page 19 line 11).

As for claim 56, Armes shows a method as claimed in claim 52, in which the establishment of an entity account for a remitter computer is accomplished as part of the transfer of funds to the escrow account (Armes, page 14 line 29-page 15, line 5).

As for claim 64, Armes shows a method as claimed in claim 52 wherein each independent step is adapted to be sequentially carried out between two or more jurisdictions (Armes, page 40 lines 28-30).

As for claim 65, Armes shows a funds transfer method in a system comprising a plurality of entity computers each with means to provide an unique entity identification (ID) ("suitable information related to the purchaser" Armes page 14, line 33) and a system server computer interconnected by a communications network ("one or more communication networks" Armes page 14, line 13), the

system server computer having an escrow account associated therewith into and out of which funds may be transferred ("suitable escrow account maintained by the transaction mechanism" Armes page 16, line 27-28), the method comprising establishing, prior to or during a funds transfer, an entity account for each entity computer with the system server computer and on a funds transfer being desired between two entity computers, designating, as appropriate, one as a remitter computer and the other as a receiver computer in which the systems server computer and/or the receiver computer are outside the jurisdiction, ("Each participant is equipped with a computing system to facilitate online commerce transactions" Armes page 8, line 25-26) and then the steps are performed of:

the remitter computer sends transaction details and the receiver entity ID to the system server computer (Armes, page 15 line 34-page 16 line 2);

generating two different codes, namely, a locking code and a funds release code, in which the locking code is used to control the holding of the funds in the escrow account and the funds release code is used to control the release of the funds from the escrow account (Armes, page 16 line 21-26);

from the systems server computer, the remitter computer receives confirmation that the receiver computer has been notified of the availability of funds in the escrow account for the receiver computer entity account,

which funds are no longer available to the remitter computer (Armes, page 16 line 26-30);

in which on the system server computer confirming the availability of the funds in the escrow account, the remitter computer receives a funds release code from the system server computer and confirmation that a locking code was sent to the receiver computer (Armes, page 16 line 30-page 17 line 1);

and then on a specified event occurring, the funds release code is sent to the system server computer instructing the system server computer to release the funds from the escrow account to the receiver computer entity account (Armes, page 17 lines 1-6).

66. As for claim 66, Armes shows a funds transfer method in a system comprising a plurality of entity computers each with means to provide an unique entity identification (ID) ("Financial account identifier" Armes page 5, line 18) and a system server computer interconnected by a communications network ("distributed computer network" Armes page 4, line 25), the system server computer having an escrow account associated therewith into and out of which funds may be transferred ("escrow account" Armes page 5, line 14), the method comprising establishing, prior to or during a funds transfer, an entity account for each entity computer with the system server computer and on a funds transfer

being desired between two entity computers, designating, as appropriate, one as a remitter computer and the other as a receiver computer (Armes, page 5 lines 14-16) when one or both of the entity computers may be outside the jurisdiction ("Each participant is equipped with a computing system to facilitate online commerce transactions" Armes page 8, line 25-26) and then the steps are performed of:

from the remitter computer, the systems server computer receives transaction details and the receiver entity ID (Armes, page 15 line 34-page 16 line 2);

generating two different codes, namely, a locking code and a funds release code, in which the locking code is used to control the holding of the funds in the escrow account and the funds release code is used to control the release of the funds from the escrow account (Armes, page 16 line 21-26);

the systems server computer confirms the availability of funds in the escrow account for the receiver computer entity account, which funds are no longer available to the remitter computer (Armes, page 16 lines 26-30);

in which on the system server computer confirming the availability of the funds in the escrow account, the system server computer sends the

locking code to the receiver computer and the funds release code to the remitter computer, and on a specified event occurring, the funds release code is received by the system server computer and the system server computer releases the funds from the escrow account to the receiver computer entity account (Armes, page 17 lines 1-6).

As for claim 67, Armes shows a funds transfer method in a system comprising a plurality of entity computers each with means to provide an unique entity identification (ID) and a system server computer interconnected by a communications network, the system server computer having an escrow account associated therewith into and out of which funds may be transferred, the method comprising establishing, prior to or during a funds transfer, an entity account for each entity computer with the system server computer and on a funds transfer being desired between two entity computers, designating, as appropriate, one as a remitter computer and the other as a receiver computer in which the systems server computer and/or the receiver computer are outside the jurisdiction, and then the steps are performed of:

the remitter computer sends transaction details and the receiver entity ID to the system server computer (Armes, page 15 line 34-page 16 line 2);

generating two different codes, namely, a locking code and a funds release code, in which the locking code is used to control the holding of

the funds in the escrow account and the funds release code is used to control the release of the funds from the escrow account (Armes, page 16 line 21-26);

from the systems server computer, the remitter computer receives confirmation that the receiver computer has been notified of the availability of funds in the escrow account for the receiver computer entity account, which funds are no longer available to the remitter computer (Armes, page 16 lines 26-30);

in which on the system server computer confirming the availability of the funds in the escrow account, the remitter computer receives a funds release code from the system server computer and confirmation that the locking code was sent to the receiver computer and on a specified event occurring, the funds release code is sent to the system server computer instructing the system server computer to release the funds from the escrow account to the receiver computer entity account (Armes, page 17 lines 1-6);

in which during the transaction, the remitter computer disputes the satisfactory completion of the transaction prior to an expected settlement date, the steps are performed of:

the remitter computer sends a revised settlement date to the system server computer (Armes, page 19 lines 8-11);

the two entity computers enter into dispute resolution negotiations (Armes, page 19 lines 11-12);

and if, on expiry of the revised settlement date, a satisfactory resolution of the negotiations has not taken place with the release of the funds in the escrow account to one or both of the entity accounts: the systems server computer establishes an appropriate formal alternative dispute resolution (ADR) procedure (Armes, page 19 line 6- page 19 line 12).

As for claim 68, Armes shows a computer program comprising program instructions for causing a computer to carry out some or all of the method of claim 52 (Armes, page 9 line 34-31).

As for claim 69, Armes shows a computer program according to claim 68, embodied on a record medium (Armes, page 9 line 34- page 10 line 4).

As for claim 70, Armes shows a computer program according to claim 68, stored in a computer memory (Armes, page 10 line 16-20).

As for claim 71, Armes shows a computer program according to claim 68, embodied in a read-only memory (Armes, page 10 line 16-20).

As for claim 72, Armes shows a computer program according to claim 68, carried on an electrical signal carrier (Armes, page 9 line 16-19).

As for claim 73, Armes shows a computer programmed to carry out some or all of the method of claim 52 (Armes, page 10 line 20-26).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 57-63 rejected under 35 U.S.C. 103(a) as being unpatentable over Armes in view of the American Arbitration Association Employment Dispute Resolution Rules (<http://www.lectlaw.com/files/adr18>)

As to claim 57, 58 and 59, Armes shows the provision of a dispute resolution mechanism (Armes, page 19 lines 8-12).

Armes does not show the provision of a new settlement date as part of the ADR procedure.

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However, American Arbitration Association Employment Dispute Resolution shows the extension of time as a standard part of ADR procedures American Arbitration Association Employment Dispute Resolution Rules (section 27-Extensions of Time).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Armes to include settlement date extensions as a part of the ADR process since “The AAA or the arbitrator may for good cause extend the period of time established” (section 27-Extensions of Time)

As to claim 60, Armes further shows a method as claimed in claim 57, in which the system server computer records:

the number of transactions for each entity computer, acting as a receiver computer (Armes page 39 line 2-9);

the reception of a revised settlement date for each transaction for that receiver computer as a default transaction (Armes page 30 line 1-6);

and where the number of default transactions exceeds a preset limit, the system server computer removes the entity computer from the system (Armes page 39 line 2-9).

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As to claim 61, Armes further shows a method as claimed in claim 57, in which the system server computer records:

the number of transactions for each entity computer, acting as a remitter computer (Armes, page 39 line 2-9);

the reception of a revised settlement date for each transaction for that remitter computer as a default transaction (Armes, page 30 line 1-6);

and where the number of default transactions exceeds a preset limit, the system server computer removes the entity computer from the system (Armes, page 39 line 2-9).

As to claim 62, Armes further shows a method as claimed in claim 57, in which the sending of the funds release code by the remitter computer to the systems server computer permits the remitter computer to revise the settlement date (Armes, page 35 line 33- page 36 line 33).

As to claim 63, Armes further shows a method as claimed in claim 60, in which the preset limit is one or more of:

a number of default transactions in a specified period (Armes, page 39 line 2-9);

a percentage of the total number of the transactions within a specified period being default transactions (Armes, page 38 line 25-28).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Triola, Pub US 2001/0047328 A1, shows an apparatus and method which implements, manages, and tracks on-line digital transactions via an escrow including opening, servicing, real-time or near-real time status of the broker, title company, lender, vendor, buyer and seller, and closing of an escrow via a medium such as the Internet. Multiple access methods are employed. The present invention provides computerization and Internet type process implementation for escrow processes including, digital transaction coordination, digital status coordinators, seamless escrow transactions, on-line digital signatures, video signature authentication, digital certificate authentication, signature authentication, satellite and other wireless transmission of escrow transactions, voice digital instruction, the merging of voice with digital data transactions, set-top/WebTV digital escrow transmission, global digital escrow networking, and the like. The system includes appropriate data, application, and servers along with supporting LAN or WAN-based application to perform escrow services.

Tsiounis, US Pub 2001/0032878 A1, shows a system for making electronic payments on the Web providing anonymity, security and accountability with a pre-paid stored value card ("cash card") including a card identification number for a predetermined amount of money may be purchased at a point of sale. To ensure security, Personal Security Codes are established for a user at a server. To use the cash cards, a user may visit a Web merchant, select an item to purchase, and enter the card identification number and the Personal Security Code to transmit for confirmation to the server, which subtracts the cost of the item from the predetermined amount on the cash card.

Slater, US 6098053 A, shows a system and method for performing an on-line ATM/POS transaction utilizing checking or savings account funds over a public access network by creating an electronic financial transaction instruction comprising card information and security information that are encrypted for secure transmission over the public access network to identify a checking or savings account number of a purchaser. The invention provides an on-line ATM/POS transaction capability utilizing checking or savings account funds from a public access network, such as the Internet or electronic mail.

NEC CORP 2001JP-0308753 shows an automatic summary document related to the dispute and the dispute settlement statement are transmitted to an alternative dispute resolution (ADR) apparatus from a settlement assistance apparatus through a network, in response to a dispute settlement request from a customer

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terminal. The ADR apparatus performs mediation or arbitration based on the received statement and opinion of a concerned person.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald C. Vizvary whose telephone number is 571-270-3268. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve McAllister can be reached on 571-272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Gerald Vizvary  
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July 12, 2007



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